

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Wireless Broadband Access Task Force Seeks)	GN Docket No. 04-163
Public Comment on Issues Related to)	
Commission's Wireless Broadband Policies)	

To: The Wireless Broadband Access Task Force

COMMENTS OF DOBSON COMMUNICATIONS CORPORATION

Dobson Communications Corporation ("Dobson") hereby submits its comments in response to the Public Notice released by the Wireless Broadband Access Task Force ("Task Force") on May 5, 2004 in the above-captioned proceeding.¹ From its roots as a single-exchange rural telephone company in Western Oklahoma, Dobson has grown to become a leading provider of wireless services in rural, ex-urban and suburban markets, with a significant presence in sixteen states. Dobson knows the rural wireless market as well as any telecommunications carrier in the country, and we are pleased to share our views for the further development of policies to enhance and improve upon the delivery of broadband services for rural America.

Contrary to the suggestions of some who seek to enhance their opportunity for free or inexpensive access to spectrum at the expense of incumbent licensees, broadband services are being deployed into non-urban areas of the country; as discussed below, Dobson is actively deploying wireless broadband services throughout its licensed territories to rural and suburban markets. The road to full deployment by Dobson and other wireless carriers, however, depends

¹ Public Notice, "Wireless Broadband Access Task Force Seeks Public Comment on Issues Related to Commission's Wireless Broadband Policies," DA 04-1266 (rel. May 5, 2004) ("Public Notice").

upon the continued availability of investment capital to fund network upgrades and the acquisition of the additional spectrum required to provide a full panoply of voice, data and video service offerings. As the Commission is well aware, capital markets prefer stability in regulatory policies and closely scrutinize changes in those policies that could negatively impact embedded investment. In its policy deliberations and recommendations, the Task Force therefore must carefully consider the real-world effects of any proposals for policy changes, that would undermine existing investments, and equally inhibit future investments into incumbent carriers or new entrants, thereby threatening the very access to these new advanced services that the Task Force is seeking to encourage. This is a particularly important issue for companies like Dobson, which has invested billions in its networks to provide advanced mobile services to the public and whose ability to expand broadband services in rural areas would be severely undermined.

In a similar vein, Dobson suggests that the Commission can promote investment in wireless broadband services in rural areas by being more sensitive to the substantial cost impact being created by many recently adopted unfunded Federal mandates, the substantially greater benefit of which is aimed at more urban, densely populated areas. By leveling the playing field for rural carriers, whose per capita expenditures for regulatory compliance are substantially disproportionate to the expenditures of larger, national carriers and unlicensed service providers, the Commission can assure the availability of capital needed to make desirable broadband services more ubiquitously available in rural and non-urban markets.

I. Dobson is Taking Active Steps to Upgrade its Networks to Provide Wireless Broadband Services in Rural and Suburban Areas.

The Task Force requests information regarding the extent to which licensed wireless broadband service providers have increased broadband access and competition in rural and underserved areas.² Moreover, the Task Force seeks information on the types of applications associated with wireless broadband deployment.³ Dobson currently owns wireless networks in sixteen states (from Alaska to New York) with almost 1.5 million customers in a managed population base of 10.6 million as of December 31, 2003. Approximately 85 percent of Dobson's wireless network coverage is in rural areas. We provide mobile coverage to more than 98 percent of the population in our licensed areas.

Dobson is committed to bringing all of the features and functionality to its non-urban markets that the national wireless carriers are making available to their subscribers in urban areas. To that end, Dobson currently offers digital voice and digital feature service to all of its covered population through its Time Division Multiple Access ("TDMA") network; indeed, Dobson was one of the earliest carriers to extend digital coverage to the entirety of its rural markets. As we did when digital technology was introduced, we have undertaken a substantial commitment to our markets by updating our entire digital network to Global System for Mobile Communications ("GSM") and General Packet Radio Service ("GPRS"), with an evolution towards Enhanced Data for GSM Evolution ("EDGE") technology. Well ahead of most carriers of our size and demographic customer base, Dobson anticipates that its GSM/GPRS/EDGE

² Public Notice at 2-3 (Items 1 and 10).

³ *Id.* at 3 (Item 9).

upgrades will be completed throughout its networks by the end of the third quarter 2004.⁴ Once the GSM/GPRS/EDGE upgrades are complete, Dobson will be able to offer the full panoply of voice/data services and devices (including higher performance picture phones) to subscribers in its rural and suburban markets. Customers will be able to download video and music clips, receive e-mails, and have high-speed color access to Internet-based services on their wireless handsets. No less significant, Dobson will offer subscribers in these markets the ability to access the Internet through their computers on a wireless basis through the use of GPRS/EDGE PC cards or by tethering wireless handsets to computers.

It is anticipated that GPRS will boost Dobson's download data transmission speeds to 30-50 Kbps; EDGE will further improve data rates up to 120-150 Kbps. In the future, Dobson hopes to further upgrade its networks to provide third-generation ("3G") services by implementing the Universal Mobile Telecommunications System ("UMTS").⁵ With UMTS, Dobson will be able to provide rural and suburban users with download data speeds between 384 Kbps and 2 Mbps, comparable to the speeds of many cable and DSL broadband services.

Moreover, Dobson is committed to providing virtually ubiquitous coverage to the populations of its markets and not merely to known high traffic areas. Dobson consistently designs coverage that extends to the small towns and rural corners of its markets and has consistently responded to subscribers' concerns about the quality of our service by installing additional coverage whenever it could be justified on a reasonable financial basis.

⁴ Dobson has already completed the GSM/GPRS upgrade for the continental U.S. markets and will complete the GSM/GPRS upgrade for the Alaska markets by mid-2004. Dobson anticipates that the EDGE upgrade will be completed in all markets by the end of the third quarter. Indeed, Dobson is the first, and in some cases the *only* carrier offering any data services and advanced features (like picture phones) in many of its non-urban markets.

⁵ Dobson currently plans a pilot trial sometime in 2005.

Dobson's continued improvements to its network, and its eventual evolution to 3G services all depend on access to investment capital and its ability to obtain in many of its licensed areas the additional spectrum needed to provide the full panoply of services that subscribers demand. Additional spectrum is particularly critical over the next several years, as the Company seeks simultaneously to support analog service (until February 18, 2008 on Dobson's cellular networks),⁶ TDMA, GSM/GPRS/EDGE, and then UMTS. As other carriers have mentioned, "[t]o deploy UMTS, a carrier must set aside a minimum of 10 MHz of dedicated spectrum (5 MHz uplink paired with 5 MHz downlink)."⁷ But spectrum alone is not sufficient; as the Commission is well aware, all of these new technologies require significant amounts of capital. The Company's success in achieving these technological upgrades and making this migration possible in our predominantly rural markets will require continued access to capital markets.

To that end, the Task Force has asked whether there are regulatory incentives that would foster continued investment in and deployment of state-of-the-art technologies.⁸ We respectively suggest that this question must be turned around: in our view, the Commission should instead question whether, in a highly competitive, generally unregulated environment, there are regulatory actions that would act to discourage continued investment in the broadband wireless arena, and thus the critical deployment of necessary infrastructure?

Dobson is particularly concerned by recent Commission initiatives considering proposals that would erode the exclusive use model under which Dobson's substantial infrastructure

⁶ See 47 C.F.R. § 22.901(b).

⁷ See Dobson Comments in WT Docket No. 04-70 dated May 13, 2004 at 3 n.6 (quoting Description of Transaction, Public Interest Statement and Waiver Request of Cingular Wireless Corporation, FCC Form 603, Exhibit 1, WT Docket No. 04-70 at 18 (filed Mar. 18, 2004)).

⁸ Public Notice at 3 (Item 6).

investment has been made, by encouraging the use of unlicensed devices operating at high power levels in licensed spectrum bands and in bands virtually adjacent to the licensed services.⁹

Allowing – indeed, adopting policies encouraging -- unlicensed uses in or near licensed bands has many significant disadvantages, including an increased threat of interference from unlicensed services, customer confusion in the marketplace and, through uneven competitive underpinnings, a truly destructive force on the capital markets. Overall, such policies are likely to reduce licensed carriers' abilities to deploy broadband services, particularly in rural areas.

In recent years, the Commission has correctly shifted its spectrum policies to rely increasingly on marketplace forces to dictate the efficient allocation and use of spectrum. These forces work to their best effect, however, when licensees have a clear idea as to the rights that are associated with their licenses. The “exclusive use” licensing model encourages efficiency by providing the strongest incentives for parties to put the spectrum to its highest valued use.¹⁰ To operate at maximum efficiency, licensees generally push spectrum usage closer to the performance limits, often resulting in signals that are more sensitive to interference or degradation than a signal in a less sophisticated system. In modern, well-engineered cellular/PCS systems, harmful interference will do more than simply disrupt a single phone conversation or a single user. Increased levels of interference will impact not only the call quality or data throughput, but can affect the entire cell and possibly even the network as a whole through a decrease in network capacity and coverage. Well-established cellular system

⁹ See, e.g., *Unlicensed Operation in the TV Broadcast Bands*, ET Docket No. 04-186, *Notice of Proposed Rulemaking*, FCC 04-113 (rel. May 25, 2004); *Unlicensed Operation in the Band 3650-3700 MHz*, ET Docket No. 04-151, *Notice of Proposed Rulemaking*, FCC 04-100 (rel. Apr. 23, 2004).

¹⁰ *Spectrum Policy Task Force Report*, ET Docket No. 02-135 at 38 (rel. Nov. 2002) (“*SPTF Report*”).

engineering principles hold that coverage, quality, and capacity are inter-related; when one is affected, all are affected, thus reducing the overall performance and efficiency of the system.¹¹

Easements, underlays, and interfering neighbors who are supposed to “police” themselves affect these operating efficiencies, clouding the licensee’s spectrum rights. In order to create a regulatory environment that will enable licensed wireless carriers to further deploy broadband services, the Commission should not be creating incentives for these unlicensed systems; to do so simply undercuts the ability of licensed networks to obtain the capital they need to improve and enhance their service offerings. Simply stated, the doctrine of “destructive competition” may take hold, resulting not in the expansion of wireless broadband service deployment, particularly in rural areas, but in its demise. Indeed, the Task Force should therefore make as one of its primary recommendations that the Commission tread extremely carefully before taking, and generally refrain from taking, such actions.

For a carrier like Dobson, whose record of regulatory compliance is as good as any other carrier in the industry, the potential for a possible “Pandora’s Box” of compliance/enforcement issues that could result if the Commission moves forward with an unlicensed agenda is particularly troubling. A disjointed patchwork of unlicensed service offerings, utilizing the same or adjacent spectrum to that used by the licensed carriers, would only serve to confuse, complicate and frustrate the consumer. Rather than advancing a wireless broadband agenda, such actions are likely severely to undermine it.

¹¹ See, e.g., *WCDMA for UMS* (Harri Holma and Antti Toskala eds., 2000).

II. To Promote Advance Wireless Broadband Deployment, The Commission Should Consider Targeted Relief From Unfunded Federal Mandates For Rural Carriers.

The Commission can also help rural carriers like Dobson to bring advanced wireless services to rural markets by being generally sensitive to the need for relief from many unfunded Federal mandates whose benefit may simply outweigh the cost when applied to rural markets. Compliance with these mandates necessarily divert capital that's required for improving and upgrading facilities to remain competitive with national carriers' offerings. And the economics of service in rural areas, where carriers must amortize federally mandated costs over much smaller customer bases, while generally achieving comparable average revenues per subscriber to those achieved by the nationwide carriers, make such expenditures particularly difficult to swallow. And the problem would be exacerbated when competition exists from unlicensed service providers, who are often immune from bearing these costs altogether.

Relief from such mandates need not be given without a price: in particular, such relief could be made contingent on a carrier's deployment of wireless broadband services to a certain percentage of the population served. In this way, rural carriers would be provided with an added incentive to divert capital towards deploying competitive broadband services, while achieving relief from the need to use the capital to satisfy unfunded mandates.

CONCLUSION

Dobson is extremely proud of its record of deployment of advanced wireless services to rural America, including over the past year a substantial upgrade of infrastructure that will make broadband features available to virtually its entire market portfolio. Its ability to continue this record of achievement would be threatened, however, if the Commission fails to recognize the threat to capital access that results from allowing unlicensed devices to undercut the value of

licensed networks. As the Task Force moves forward in making recommendations for policies that encourage wireless broadband deployment, Dobson urges recognition of the substantial deployment that exists already and sensitivity to any regulatory changes that will threaten incumbent licensees' ability to continue their advancement of such services into rural America.

Respectfully submitted,

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